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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/054,602	04/03/1998	DENNIS EDWARD SMITH	74311ACFR	2765

1333 7590 02/19/2002

PATENT LEGAL STAFF
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EXAMINER	
REDDICK, MARIE L	
ART UNIT	**PAPER NUMBER**
1713	17

DATE MAILED: 02/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

T-D-17

Advisory Action	Application No.	Applicant(s)	
	09/054,602	SMITH ET AL	
	Examiner	Art Unit	
	Judy M. Reddick	1713	

--Th MAILING DATE of this communication appears on th cover sheet with the correspondenc address --

THE REPLY FILED 29 January 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☒ The proposed amendment(s) will not be entered because:

   (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☒ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *NONE*.

   Claim(s) objected to: *1,3,5,12,18 and 21*.

   Claim(s) rejected: *1-5,11-23 and 25*.

   Claim(s) withdrawn from consideration: *NONE*.

8. ☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☒ Other: *See Continuation Sheet*

Continuation of 2. NOTE: The newly proposed limitation "wherein the water-soluble inorganic salts" per claim 1 engenders New Issues that would require further consideration and/or search..

Continuation of 5. does NOT place the application in condition for allowance because: of reasons clearly set forth in the previous office action p r paper no. 15, 11/01/01.

Continuation of 10. Other: Relative to McNeil-At col. 9, lines 62-63, McNeil states that about 500-1500ppm of sodium nitrite is operable within the scope of patentees invention and this amount clearly overlaps in scope with the claimed content of "10 to 50 wt.%" of water-soluble salt. With respect to the content of carboxylic acid monomer, it is urged and maintained that one of ordinary skill in the art would have clearly envisioned the use of the carboxylic acid in lieu of the butyl methacrylate in the amount of 42 wt.% in Run III, based on their equivalently taught scope for the purposes of patentees invention, i.e., for the purpose of McNeil, all of the monomers listed at col. 11 are equivalent. Counsel is reminded that a reference is evaluated, as a whole, for what it fairly teaches and to this end, it further teaches that monomers or comonomers for the process of this invention are used in amounts of from about 1 to 99 percent by weight. Relative to Utsumi et al--Utsumi et al is not limited to the use of lithium phosphate but includes other water-soluble salts falling within the scope of the claims, in both content and character(see col. 5, line 29 and the Runs of Utsumi et al). Further, the generic teaching with respect to the monomers necessarily implies that any content of carboxylic acid monomer including the claimed content of carboxylic monomer would have been operable within the scope of patentees invention and with a reasonable expectation of success. Criticality for such, clearly commensurate in scope with the claims, not havin been demonstrated on this record. Relative to Kamiyama et al--It is urged and maintained that one of ordinary skill in the art would have readily envisioned the use of acrylic acid in lieu of the 20 wt.% of butyl acrylate component of Run 3, following the guidelines of patentee at col. 10, lines 15-16, i.e., all of the monomers listed at col. 10 of patentee are equivalent for the purpose of this reference..

JUDY M. REDDICK
PRIMARY EXAMINER
GROUP 1700